

or sale of tobacco products and who receive compensation from the manufacturer, or a parent, subsidiary, or auxiliary company or corporation of the manufacturer. Such product furnished for off-factory consumption shall be furnished to the employee within the factory and taken from the factory by the employee on the day for which furnished. Employees shall not sell, offer for sale, or give away products so furnished.

[T.D. ATF-232, 51 FR 28082, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986, as amended by T.D. ATF-289, 54 FR 48840, Nov. 27, 1989; T.D. ATF-424, 64 FR 71931, Dec. 22, 1999; T.D. TTB-91, 76 FR 5480, Feb. 1, 2011]

§ 40.232 Experimental purposes.

A manufacturer of tobacco products may use tobacco products for experimental purposes without determination and payment of tax as set forth in this section.

(a) *What are experimental purposes?* Experimental purposes are operations or tests carried out under controlled conditions to discover an unknown scientific principle or fact, to gather or confirm data about a known scientific principle or fact, or to test manufacturing, packaging, or other such equipment. Examples of uses for experimental purposes are:

(1) Use by manufacturers to determine scientific facts relating to tobacco products, such as their chemical content;

(2) Use by producers of packaging machines to test the operation of such machines; and

(3) Use by laboratories, hospitals, medical centers, institutes, colleges, or universities, for scientific, technical, or medical research.

(b) *What purposes are not experimental?* The uses of tobacco products outside the factory premises for advertising or consumer testing or as salespersons' or customers' samples are not experimental purposes.

(c) *Use in factory.* A manufacturer of tobacco products may use tobacco products without determination and payment of tax for experimental purposes in a factory.

(d) *Use outside factory.* A manufacturer may remove tobacco products in bond for experimental purposes outside

a factory. When tobacco products are shipped for experimental purposes outside the factory, the proprietor of the factory remains liable for the taxes imposed by 26 U.S.C. 5701 until the occurrence of one of the following events:

(1) The tobacco products are returned to the premises of the factory from which they were shipped; or

(2) The tobacco products are destroyed during or after their use for experimental purposes.

(e) *Record of use.* In addition to the records prescribed by § 40.183, a manufacturer who removes tobacco products in bond for experimental purposes outside a factory must prepare and maintain a record containing the following information:

(1) Name and address of the consignee;

(2) Kind and quantity of tobacco products removed;

(3) Description of packaging, if any, of the tobacco products removed;

(4) Description of how and when the consignee will use the tobacco products; and

(5) Disposition of any remaining tobacco products after the consignee's use.

(Approved by the Office of Management and Budget under Control Number 1512-0562)

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

[T.D. ATF-478, 67 FR 19333, Apr. 19, 2002]

§ 40.233 Transfer in bond.

A manufacturer of tobacco products may transfer tobacco products in bond, to the factory of any manufacturer of tobacco products. The transfer of tobacco products in bond to the premises of an export warehouse proprietor shall be in accordance with the provisions of part 44 of this chapter. However, tobacco products are eligible for transfer in bond to a manufacturer of tobacco products or to an export warehouse only if they bear the required marks, labels, and notices.

(72 Stat. 1418, as amended; 26 U.S.C. 5704)

[T.D. 6871, 31 FR 37, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28082, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-421, 64 FR 71924, Dec. 22, 1999; 78 FR 38567, June 27, 2013]